

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

JAZZMINE BROWN,

Defendant and Appellant.

B247554

(Los Angeles County
Super. Ct. No. BA332860)

APPEAL from a judgment of the Superior Court of Los Angeles County, David Horwitz, Judge. Affirmed.

Alex Green, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In a felony complaint filed on February 4, 2008, Jazzmine Brown was charged with six counts of perjury (Pen. Code, § 118, subd. (a)), one count of grand theft (Pen. Code, § 487, subd. (a)) and one count of welfare fraud (Welf. & Inst. Code, § 10980, subd. (c)(2)).

On September 29, 2008, Brown, represented by counsel, waived her rights to a preliminary hearing and a jury trial and entered a negotiated plea of guilty to grand theft and welfare fraud. In return, if Brown testified truthfully in subsequent proceedings, she would be placed on five years of formal probation, with credit for time served, and ordered to pay victim restitution, including \$2,724.00 to the Los Angeles Department of Public Social Services (DPSS). If Brown did not testify truthfully, she would be sentenced to 60 days in county jail or required to perform 60 days for the California Department of Transportation and ordered pay full victim restitution, including \$22,223.12 of actual loss and \$3,847 to DPSS. The record of the plea hearing established Brown was advised of and waived her constitutional rights and was advised of and acknowledged she understood the consequences of her plea. Counsel stipulated to a factual basis for the plea. The trial court found Brown had knowingly, voluntarily and intelligently waived her constitutional rights and entered her guilty plea. The matter was continued for sentencing.

Because of a dispute over the amount of victim restitution, Brown had not yet been sentenced when she moved to withdraw her plea on February 19, 2013 pursuant to Penal Code section 1018. Specifically, Brown claimed her attorney coerced and tricked her into accepting a negotiated plea to avoid custody time and, because she was on psychotropic medication at the time, Brown did not understand the consequences of five years probation and payment of full restitution. The People opposed the motion.

At the sentencing hearing on February 25, 2013, the trial court heard and denied Brown's motion and sentenced her to five years of formal probation, with credit for time served and ordered her to pay a total of \$6,571 in victim restitution to DPSS. The court ordered Brown to pay a \$40 court security fee and a \$30 criminal conviction assessment. The court imposed a \$240 restitution fine and imposed and suspended a probation

revocation fine pursuant to Penal Code section 1202.44. The remaining counts were dismissed on the People's motion.

In her notice of appeal, Brown checked the preprinted boxes indicating her appeal was "based on the sentence or other matters occurring after the plea" and "challenges the validity of the plea or admission." She also checked the box marked "other" and asserted she was appealing from the trial court's denial of her motion to withdraw her plea. The trial court denied Brown's request for a certificate of probable cause.

We appointed counsel to represent Brown on appeal. After an examination of the record counsel filed an opening brief in which no issues were raised. On July 12, 2013 we advised Brown she had 30 days in which to personally submit any contentions or issues she wished us to consider. We have received no response to date.

To the extent we construe Brown's appeal as from an order denying her motion to withdraw her plea, the record fails to show that Brown's plea was not voluntary, knowing, and intelligent, or that she did not understand the nature and consequences of her plea. The record also fails to demonstrate defense counsel provided ineffective assistance at any time during the proceedings in the trial court. (*Strickland v. Washington* (1984) 466 U.S. 668, 686 [104 S.Ct. 2052, 80 L.Ed.2d 674].) With respect to other potential sentencing or post-plea issues that do not in substance challenge the validity of the plea itself, we have examined the record and are satisfied Brown's attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

WOODS, J.